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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/038,758	12/31/2001	Henry M. D'Souza	H052617.1152US0	6289
1200	7590	06/03/2005	EXAMINER	
AKIN, GUMP, STRAUSS, HAUER & FELD 1111 LOUISIANA STREET 44TH FLOOR HOUSTON, TX 77002			POKRZYWA, JOSEPH R	
			ART UNIT	PAPER NUMBER
			2622	

DATE MAILED: 06/03/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/038,758	Applicant(s) D'SOUZA ET AL.	
	Examiner Joseph R. Pokrzywa	Art Unit 2622	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-19 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 31 December 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- 1) ☐ Certified copies of the priority documents have been received.
- 2) ☐ Certified copies of the priority documents have been received in Application No. ____.
- 3) ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>4/4/02</u> . | 6) <input type="checkbox"/> Other: ____ |

DETAILED ACTION

Information Disclosure Statement

1. The references listed in the Information Disclosure Statement submitted on 4/4/02 have been considered by the examiner (see attached PTO-1449).

Drawings

2. The drawings received on 12/31/01 are acceptable by the examiner.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. **Claims 1-19** are rejected under 35 U.S.C. 102(b) as being anticipated by Falk (U.S. Patent Number 5,760,913).

Regarding *claim 1*, Falk discloses a method comprising the steps of pre-scanning a color reference swatch with a scanner to produce color reference data for the scanner (step 702 in Fig. 7, column 7, lines 8-64), pre-building a scanner specific color profile for the scanner based on the color reference data (steps 703-706 in Fig. 7, column 7, lines 21-64), and pre-storing the scanner specific color profile in the scanner (step 707 in Fig. 7, column 4, line 59-column 5, line 3, and column 7, lines 21-64).

Regarding **claim 2**, Falk discloses the method discussed above in claim 1, and further teaches that the pre-scanning, pre-building and pre-storing steps are performed by color management software of a manufacturer of the scanner (column 5, lines 4-63).

Regarding **claim 3**, Falk discloses the method discussed above in claim 1, and further teaches that the scanner comprises a non-professional scanner (column 3, line 55-column 4, line 11).

Regarding **claim 4**, Falk discloses the method discussed above in claim 1, and further teaches of automatically performing color correction for the scanner based on the scanner specific color profile (column 6, line 26-column 7, line 64).

Regarding **claim 5**, Falk discloses the method discussed above in claim 4, and further teaches that the performing step occurs with each scanning cycle of the scanner (column 4, line 39-column 5, line 63).

Regarding **claim 6**, Falk discloses the method discussed above in claim 1, and further teaches that the color reference swatch comprises a CMYK swatch (column 5, lines 6-45).

Regarding **claim 7**, Falk discloses a method comprising the steps of scanning a color reference swatch and an image during a scanning cycle of scanner to produce color swatch reference data and image data (step 702 in Fig. 7, column 7, lines 8-64), building a scanner specific color profile based on the color reference swatch data (steps 703-706 in Fig. 7, column 7, lines 21-64), and storing the scanner specific color profile in the scanner (step 707 in Fig. 7, column 4, line 59-column 5, line 3, and column 7, lines 21-64).

Regarding *claim 8*, Falk discloses the method discussed above in claim 7, and further teaches of performing color correction on the image data based on the scanner specific color profile (column 6, line 26-column 7, line 64).

Regarding *claim 9*, Falk discloses the method discussed above in claim 8, and further teaches of repeating the scanning, building, storing and performing color correction steps for each scanning cycle of the scanner (column 4, line 39-column 5, line 63).

Regarding *claim 10*, Falk discloses the method discussed above in claim 7, and further teaches that color reference swatch and the image are contained in a target sheet (column 5, lines 6-45).

Regarding *claim 11*, Falk discloses the method discussed above in claim 7, and further teaches that the color reference swatch is embedded in the bed of the scanner (column 5, lines 6-45, and column 8, line 44-column 9, line 10).

Regarding *claim 12*, Falk discloses the method discussed above in claim 7, and further teaches that the color reference swatch comprises a CMYK swatch (column 5, lines 6-45).

Regarding *claim 13*, Falk discloses the method discussed above in claim 7, and further teaches that the scanner comprises a non-professional scanner (column 3, line 55-column 4, line 11).

Regarding *claim 14*, Falk discloses a computer system comprising a processor and color management software executable by the processor (column 5, lines 4-63) to retrieve a pre-stored scanner specific color profile and to automatically perform color correction for a scanner based on the scanner specific color profile (column 6, line 16-column 7, line 64).

Regarding *claim 15*, Falk discloses the system discussed above in claim 14, and further teaches that the color management software automatically performs color correction with each scanning cycle of the scanner (column 4, line 39-column 5, line 63).

Regarding *claim 16*, Falk discloses the system discussed above in claim 14, and further teaches that the scanner comprises a non-professional scanner (column 3, line 55-column 4, line 11).

Regarding *claim 17*, Falk discloses a method comprising the steps of retrieving a pre-stored scanner specific color profile for a scanner, and automatically performing color correction for the scanner based on the scanner specific color profile (column 6, line 16-column 7, line 64).

Regarding *claim 18*, Falk discloses the method discussed above in claim 17, and further teaches that the pre-stored scanner specific color profile is stored by a manufacturer of the scanner (column 5, line 4-column 6, line 4).

Regarding *claim 19*, Falk discloses the method discussed above in claim 17, and further teaches that the scanner comprises a non-professional scanner (column 3, line 55-column 4, line 11).

Citation of Pertinent Prior Art

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure:

Davidson *et al.* (U.S. Patent Application Publication US 2001/0040979) discloses a system that calibrates a scanner.

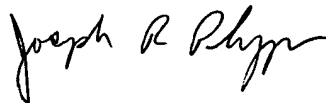
Conclusion

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joe Pokrzywa whose telephone number is (571) 272-7410. The examiner can normally be reached on Monday-Friday, 9:00-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Edward L. Coles can be reached on (571) 272-7402. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Joseph R. Pokrzywa
Primary Examiner
Art Unit 2622



jrj